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Book Review

Clinical Negligence. Powers, Harris, Barton (Eds.), 4th edition, Journal of Forensic and Legal Medicine, Tottel Publishing, April 2008.

A glance at one of the leading on-line retailers of medical textbooks in the UK shows there are about 15 books currently available with the words “clinical negligence” in their title. The quoted prices range from £12 to £90, apart from “*Clinical Negligence*” edited by Powers, Harris and Barton, which weighs in at nearly £400.

But there is another measure which puts this book into a league of its own.

The list of contributors, both medical and legal, reads like a “Who’s Who” of some of the most eminent individuals in this particular field in the UK. The chapters written by medical specialists are unmatched anywhere.

The book is aimed primarily at specialist lawyers and medical expert witnesses. The descriptions of the legal process, and the preparation an expert has to make, are excellent. Hopefully a future edition will include a chapter written by a forensic physician, because clinical forensic medicine is a specialty with its own significant risks and unique features in clinical negligence.

The book is not without its faults. For example, in common with many other textbooks on medical law, it does not reflect the true position in dealing with the enforcement of patient confidentiality. A doctor is many times more likely to be challenged on a question of patient confidentiality before a GMC Fitness to Practise panel, than a civil court.

There also seems to be very little written on the nature of legal privilege and how this might apply to a medical expert who is more used to the concept of patient confidentiality. In this context, it is unfortunate that the 4th edition of *Clinical Negligence* was published just before the GMC issued its booklet on the ethical requirements it places on medical expert witnesses.¹ In the last 8 years, the MDU has assisted medical expert witnesses with 18 GMC investigations and 57 claims arising from their work as experts.² This illustrates the relative role of the GMC and which most

of the authors in *Clinical Negligence*, with their overwhelming focus on the civil courts, seem not to address.

There are chapters on clinical governance and regulation of the medical profession which provide a superb historical snapshot, but even in the short space of time since the 4th edition was published, things have moved on significantly – and will continue to do so. I would recommend to the interested reader a Google search to obtain the most up-to-date information on clinical governance and medical regulation.

The book comes with a CD which is good news for those who do not wish to carry the 1.9 kg book with them. However, the CD has a very disappointing search facility. Type in “complaint procedure” and one gets every occurrence of the word “complaint” and every occurrence of the word “procedure”.

The search facility reveals another shortcoming. Type in “Wilsher” (referring to the multi-faceted, watershed case of *Wilsher vs Essex Health Authority*³) and one gets 14 references spread over five chapters, but none of the entries gives a complete and cohesive description of the case, nor do the entries collectively give a comprehensive evaluation of the various effects of the precedent it sets, in the way one would find, for example, in Mason & McCall Smith’s *Law and Medical Ethics*.⁴

In a multi-author book as big as *Clinical Negligence*, repetition and gaps are perhaps unavoidable.

Overall this is an impressive book. It is not one I could recommend to our MLA or FME readers as a first book, but it is a reference work well worth consulting.

I cannot speak for lawyers, but to the clinician embarking on a serious career as an expert medical witness in the UK, I suggest *Clinical Negligence* is a “must have”.

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¹ General Medical Council, “Acting as an Expert Witness”, July 2008, www.gmc-uk.org.

² Press release, “MDU highlights medico-legal risks of expert witness work” 25th July 2008, www.the-mdu.com.

³ *Wilsher vs Essex Health Authority*, [1988] 1 All ER 871, HL.

⁴ *Mason & McCall Smith’s Law and Medical Ethics* by Ken Mason & Graeme Laurie, 7th edition, Oxford University Press.